

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #7	CCRB Case #: 201801724	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/20/2018 5:40 PM	Location of Incident: on "Spirit of America," Staten Island Ferry	Precinct: 120	18 Mo. SOL 8/20/2019	EO SOL 8/20/2019	
Date/Time CV Reported Mon, 02/26/2018 8:30 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/02/2018 11:16 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Moore	12578	937134	PBSI

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Lee Handras	24783	936729	PBSI

Officer(s)	Allegation	Investigator Recommendation
A.POM Kevin Moore	Force: Police Officer Kevin Moore used physical force against § 87(2)(b)	
B.POM Kevin Moore	Force: Police Officer Kevin Moore used a chokehold against § 87(2)(b)	
C.POM Kevin Moore	Force: Police Officer Kevin Moore restricted § 87(2)(b)'s breathing.	
D.POM Kevin Moore	Force: Police Officer Kevin Moore used physical force against § 87(2)(b)	
E.POM Kevin Moore	Off. Language: Police Officer Kevin Moore made remarks to § 87(2)(b) based upon the physical disability of § 87(2)(b)	
F.POM Kevin Moore	Discourtesy: Police Officer Kevin Moore spoke discourteously to § 87(2)(b)	

Case Summary

On February 26, 2018, § 87(2)(b) called the IAB Command Center and filed the following complaint on behalf of her son, § 87(2)(b) under IAB Log #18-7660 (BR01). On March 2, 2018, the CCRB received this complaint from IAB. This

On February 20, 2018, at approximately 5:40 p.m., on the Staten Island ferry, named “The Spirit of America,” § 87(2)(b) became involved in a verbal altercation with an unidentified male. A few minutes later, Police Officer Kevin Moore and Police Officer Lee Handras of Patrol Borough Staten Island Ferry Detail (“PBSI Ferry”), approached and separated them. After PO Handras escorted the unidentified male to another area of the ferry, it is alleged that PO Moore immediately grabbed § 87(2)(b)’s arms, pushed and pulled him, and threw him into a wall (**Allegation A: Force—Physical Force**, § 87(2)(g)). PO Moore then allegedly placed § 87(2)(b) in a headlock, choked him, restricted his breathing, and repeatedly punched him in the face with a closed fist (**Allegation B: Force—Chokehold**, § 87(2)(g); **Allegation C: Force—Restricted Breathing**, § 87(2)(g); **Allegation D: Force—Physical Force**, § 87(2)(g)). A few minutes later, after PO Moore and PO Handras successfully handcuffed § 87(2)(b), PO Moore allegedly found his psychiatric medication in his backpack, called § 87(2)(b) “a nutjob,” and remarked that he should have told him he was on medication before he “beat the crap” out of him (**Allegation E: Offensive Language—Physical Disability**, § 87(2)(g); **Allegation F: Discourtesy—Demeanor/Tone**, § 87(2)(g)). § 87(2)(b) was arrested for assault in the 2nd degree, resisting arrest, and disorderly conduct (BR02).

The investigation obtained surveillance video footage (BR03-BR06) from “The Spirit of America” ferry, that captured portions of this incident. The investigation did not obtain any Body-Worn Camera (“BWC”) footage responsive to this incident (BR07), as the NYPD did not issue BWCs to PBSI Ferry officers until April 25, 2019 (BR08).

§ 87(2)(g), § 87(2)(b)

Findings and Recommendations

Allegation A—Force: Police Officer Kevin Moore used physical force against § 87(2)(b)

Allegation B—Force: Police Officer Kevin Moore used a chokehold against § 87(2)(b)

Allegation C—Force: Police Officer Kevin Moore restricted § 87(2)(b) s breathing.

Allegation D—Force: Police Officer Kevin Moore used physical force against § 87(2)(b)

On February 20, 2018, at approximately 5:40 p.m., on the saloon deck of the Manhattan bound Staten Island Ferry named “The Spirit of America,” § 87(2)(b) and an unidentified male became engaged in a verbal altercation after bumping into each other earlier. A few minutes

later, PO Moore and PO Handras approached and separated them. PO Handras escorted the unidentified male away to a different level of the ferry, and PO Moore stayed with § 87(2)(b) on the saloon deck.

§ 87(2)(b) stated (BR09) that PO Moore immediately grabbed one of his arms, began pushing and pulling him, and then threw him against the wall, without issuing any commands or informing him he was under arrest. However, the video footage from the saloon deck of the ferry (BR05), beginning at the 2:10 minute mark, shows that after § 87(2)(b) and the other male are separated, PO Moore merely stands in front of § 87(2)(b) and makes only minimal contact with him by lightly holding his arm. The saloon deck footage further shows, between the 2:45 to the 3:00 minute marks, § 87(2)(b) forcefully gesturing toward the area where the unidentified male exited, while PO Moore remains in front of him, and uses only the minimal physical contact necessary to block § 87(2)(b)'s repeated attempts to pursue the unidentified male, until § 87(2)(b) and PO Moore both exit the frame. At the 3:00 minute mark of the video footage (BR05), multiple civilians within the saloon deck are seen looking off frame right, where PO Moore and § 87(2)(b) were seen exiting frame.

§ 87(2)(b) stated (BR09) that PO Moore placed him in a headlock, choked him, and then repeatedly punched him in the face with a closed fist, which he added occurred “conveniently” outside the frame of the video. § 87(2)(b) alleged that PO Moore choked him for several seconds, wherein he could not breathe, potentially lost consciousness for a few seconds, and suggested that he only regained consciousness as a result of PO Moore’s punching him. However, § 87(2)(b) could not recall whether PO Moore’s hand was around the front or the back of his neck, if he was standing or on the ground when PO Moore choked and punched him, or if he in fact lost consciousness.

PO Moore stated (BR10) that he had separated § 87(2)(b) and the unidentified male, he tried to talk to § 87(2)(b) and calm him down, while § 87(2)(b) repeatedly remarked that he wanted to fight the unidentified male. PO Moore stated that rather than calming down, § 87(2)(b) became increasingly irate and aggressive, and told him, “You know what? I’m going to kill him. But first, I’m going to kill you to get to him.” PO Moore deemed § 87(2)(b) to be under arrest, told him to turn around and place his hands behind his back. As PO Moore reached for his arm to handcuff him, § 87(2)(b) punched him in face with a closed fist, striking his left cheek, and PO Moore then punched § 87(2)(b) back striking him in the face, which he said was in self-defense, and is consistent with the pursuant TRI (BR11) and Arrest report (BR02). During the ensuing struggle, PO Moore (BR10) repeatedly tried to get control of § 87(2)(b)'s arms to handcuff him, while § 87(2)(b) actively resisted by pulling his arms away. PO Moore denied placing § 87(2)(b) in either a headlock or chokehold, denied that he choked him, denied that he ever restricted § 87(2)(b)'s breathing or placed any pressure on his neck or throat, and denied that § 87(2)(b) lost consciousness during the incident.

§ 87(2)(b) stated (BR09) that as the struggle continued on the floor of the saloon deck, PO Moore told him to stop resisting, and then punched him in the mouth, causing contusions to his lip and face, as seen in § 87(2)(b)'s arrest photo (BR12). While § 87(2)(b) denied resisting or showing any aggression in response to PO Moore’s uses of force, he acknowledged that he tried to defend himself during the struggle, but was unable to describe the specific actions he took therein.

PO Moore stated that (BR10) during the continuing struggle, he and § 87(2)(b) either lost their balance and fell, or he forcibly brought him to the floor. PO Moore got on top of § 87(2)(b) and handcuffed his right arm, while § 87(2)(b) continued to actively resist by

bracing his free wrist under his torso, and pulling his handcuffed wrist away. While PO Moore knelt over top of § 87(2)(b) holding his right handcuffed wrist with his right hand, and § 87(2)(b) s right shoulder with left hand, § 87(2)(b) bit down on PO Moore's left hand ring finger, causing a laceration and blood loss, as documented in the TRI (BR11) and AIDED (BR13) reports.

PO Moore denied (BR10) that he struck or punched § 87(2)(b) a second time amidst the struggle on the ground, stating that he was not physically able to, and insisted he only struck § 87(2)(b) once, in reaction to being punched after informing § 87(2)(b) he was under arrest. However, the video footage (BR05), beginning at the 3:25 minute mark, shows PO Moore and a ferry crew member struggling with § 87(2)(b) while he lies face up on the floor. At the 3:30 minute mark of the video, PO Moore appears to raise his right arm back, and delivers an apparent downward strike with a closed fist, toward where § 87(2)(b) is on the ground. After reviewing the above footage, PO Moore stated (BR10) that he may have tried to strike § 87(2)(b) to overcome his resistance, but denied that it connected, and affirmed that he only landed one hand strike to § 87(2)(b) s face.

PO Handras stated (BR14) that a few minutes after escorting the unidentified male to the lower level of the ferry, a crew member informed him that there was "a situation, upstairs." PO Handras returned to the saloon deck and observed that PO Moore's hand was bleeding, his cheek was pink, he appeared physically exhausted, and § 87(2)(b) had only one wrist handcuffed. PO Handras ran over and assisted PO Moore with handcuffing § 87(2)(b) which he described as very difficult due to § 87(2)(b) actively resisting by tensing his body, bracing his arms underneath his torso, and by pulling his arms away to prevent the officers from handcuffing him, which is consistent with both § 87(2)(b) s Arrest report (BR02) that he prepared, and his sworn statement provided in the subsequent Criminal Court Complaint (BR15). After a few minutes, the officers were able to roll § 87(2)(b) onto his stomach, successfully handcuff him, and then transported him to § 87(2)(b) in Manhattan, where he received a psychiatric evaluation, medical treatment for his lip, and was medically cleared for arraignment (BR16).

An officer may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. [...] In determining whether the use of force is reasonable, members of the service should consider the following: nature and severity of the crime or circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, members of the service, or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, the subject's violent history (if known), and the presence of hostile crowd or agitators. [...] Members of the service shall not: use any level of force to punish, retaliate or coerce a subject to make statements. Patrol Guide, Procedure 221-01 (BR17).

§ 87(2)(g)

§ 87(2)(g)

Allegation E—Offensive Language: Police Officer Kevin Moore made remarks to § 87(2)(b) based upon the physical disability of § 87(2)(b)

Allegation F—Discourtesy: Police Officer Kevin Moore spoke discourteously to § 87(2)(b)

After the officers handcuffed him and escorted him to another area of the ferry, § 87(2)(b) stated (BR09) that PO Moore looked inside of his backpack, found his psychiatric medication, referred to him as “a nutjob,” and remarked that § 87(2)(b) should have told him he was on medication before he “beat the crap” out of him.

Neither PO Moore (BR10) nor PO Handras (BR14) recalled searching, or witnessing their partner search § 87(2)(b)'s backpack, nor recalled if any medication was found therein. The property voucher (BR18) prepared by PO Handras, does not list any prescription medication within § 87(2)(b)'s possession at the time of arrest. PO Moore denied that he called or referred to § 87(2)(b) as “a nutjob,” or remarked to § 87(2)(b) that he “beat the crap” out of him, and PO Handras denied witnessing PO Moore make either alleged statement.

The mission of the New York City Police Department is to enhance the quality of life in New York City by working in partnership with the community to enforce the law, preserve peace, protect the people, reduce fear, and maintain order. [...] In partnership with the community, we pledge to: Protect the lives and property of our fellow citizens and impartially enforce the law. Fight crime, both by preventing it and aggressively pursuing violators of the law. Maintain a higher standard of integrity than is generally expected of others because so much is expected of us. Value human life, respect the dignity of each individual and render our services with courtesy and civility. Patrol Guide, Procedure 200-02 (BR19).

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
 - [REDACTED]
[REDACTED]
- PO Moore, a 15-year-member-of-service, has had one prior CCRB complaint filed against him, with a total of one allegation, which was not substantiated (see Officer History). § 87(2)(g) [REDACTED]
[REDACTED]

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- On May 3, 2019, § 87(2)(b) on his own behalf, filed a Notice of Claim with the NYC Comptroller's Office, seeking \$100,000,000 in redress for damages, injuries, and financial loss in regards to this incident (BR20).

- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Squad No.: 7

Investigator: Griffin Sherbert Griffin Sherbert 12/02/2020
Signature Print Title & Name Date

Squad Leader: _____

Signature _____

Manager Vanessa Rosen _____

Print Title & Name _____

12/03/2020 _____

Date _____

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____